Remarks:

Reconsideration of the application, as amended herein, is respectfully requested.

Claims 1 - 4 and 7 - 14 are presently pending in the application. Claims 1, 7 and 15 have been amended. Claims 5, 6 and 15 have been canceled, herein.

On page 2 of the above-identified Office Action, the drawings were objected to because it was alleged that Fig. 3 should be labeled "Prior Art", Fig. 1 allegedly appeared incomplete at the right of the figure and Fig. 2 allegedly contained illegible reference numerals. Applicant previously addressed these drawing concerns in the amendment filed on January 5, 2009. As can be seen from the drawings found on PAIR in connection with that filing of January 5, 2009, replacement sheets were provided at that time in which Fig. 3 was labeled "Prior Art", wherein the right side of Fig. 1 was better clarified and wherein the reference numerals of Fig. 2 were better defined. As such, it is believed that the concerns relating to the drawings listed on page 2 of the present Office Action were previously addressed in connection with the previous Office Action.

As such, Applicant respectfully requests that the objections to the drawings made on page 2 of the present Office Action be withdrawn.

On page 3 of the Office Action, claims 1 - 3 and 7 - 13 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by European Patent Application Publication No. EP 624,508 to Koradi (“**KORADI**”).

On page 4 of the Office Action, claims 4 - 6, 14 and 15 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over **KORADI** in view of U. S. Patent No. 5,620,156 to Berggren et al (“**BERGGREN**”).

Applicant respectfully traverses the above rejections, as applied to the amended claims.

More particularly, Applicant’s amended claims 1 and 7 recite, among other limitations:

> c) the locking support being tightly fitted to a foot of the stock rail on the side of the stock rail opposed to the switch blade for fastening to the stock rail, **the locking support additionally being connected to a thrust bearing that is arranged on a fixed superstructure component including at least one of a switch blade slide chair and a rising edge of a cross-tie member having a u-shaped profile on a side of the stock rail facing the switch blade;** [emphasis added by Applicant]

Thus, Applicant's amended claims 1 and 7 require, among other things, that the locking support be tightly fitted to a foot of the stock rail on the side of the stock rail opposed to the switch blade for fastening to the stock rail, and that it also be connected to a thrust bearing arranged on at least one of a switch blade slide chair and a rising edge of a cross-tie member having a u-shaped profile on a side of the stock rail facing the switch blade. The amendments to Applicant's claims are supported by the specification of the instant application, for example, by originally filed claims 3, 4 and 6 of the instant application. See also, for example, page 9 of the instant application, lines 9 - 18 and page 11 of the instant application, lines 19 - 29.

Thus, the presently claimed invention provides a uniform solution for almost any possible profile. Since the clamping (i.e., "tightly fitting) of the locking support to the foot of the stock rail is only effected on the outer side of the stock rail (i.e., the side opposite the switch blade), the mechanical tension can be achieved by a thrust bearing arranged on a switch blade slide chair (140 of Fig. 2 of the instant application) or on a rising edge of a cross-tie member (136 of Fig. 2 of the instant application) in order to tightly fit the locking support (102, 132 of the instant application)

to the foot (150 of the instant application) of the stock rail (14, 144 of the instant application).

The above features, among others, are neither taught, nor suggested by the prior art.

More particularly, among other limitations of Applicant's claims, the **KORADI** reference does not teach or suggest, **the locking support being tightly fitted to a foot of the stock rail on the side of the stock rail opposed to the switch blade for fastening to the stock rail, and being connected to a thrust bearing that is arranged on a fixed superstructure component including at least one of a switch blade slide chair and a rising edge of a cross-tie member having a u-shaped profile on a side of the stock rail facing the switch blade,** as required by Applicant's amended claims. This failure of **KORADI** is acknowledged, in part, on page 4 of the Office Action.

Rather, as described in connection with Fig. 3 of the instant application, which shows the device of the prior art **KORADI** reference, the locking bearing 6 of **KORADI** and the locking support 16 of **KORADI** are fastened to the foot 28 of the stock rail 14 of **KORADI, wherein tension is achieved by a clamping screw 30 of KORADI located on the side opposite to the switch**

blade 8 of KORADI and a clamping hook 32 of KORADI located on the side of the switch blade 8 of KORADI. The locking catch 10 of **KORADI** is moved and secured by the locking rod 18 of **KORADI** into the desired position. Therefore, in the embodiment of **KORADI** shown in Fig. 3 of the instant application, the locking rod 18 of **KORADI** has to be firmly supported by the locking bearing 6 of **KORADI** and the locking support 16 of **KORADI.** However, as can be seen, this embodiment of **KORADI only** works properly for switch blades having the profile shown in Fig. 3 of the instant application (i.e., Figs. 1 - 4 of the **KORADI** reference), usually for those switch blades supported by a switch blade sliding chair elevated as compared to the lower foot 28 of the stock rail 14.

However, as shown in connection with Fig. 2 of the instant application, whenever the switch blade 142 has a different profile and, in particular, the foot 150 of the stock rail 144 has a profile adapted to achieve a positive fitting with the switch blade, the device disclosed in **KORADI** no longer helps fasten the locking bearing (132 of Fig. 2 of the instant application) to the foot (150 of Fig. 2 of the instant application) of the stock rail (144 of Fig. 2 of the instant application). One possible solution for the failure of **KORADI** in connection with differently profiled stock blades would be to modify **KORADI** to provide an individual clamping part

complementing the side of the switch blade, in order to secure the locking bearing to the foot of the stock rail. Unfortunately, this solution would require a differently configured clamping part to be provided for each individual profile of the foot of the stock rail and switch blade.

In contrast to the device disclosed in **KORADI**, Applicant's particularly claimed invention provides a uniform solution for almost any possible switch blade profile, as described above.

Further, the **BERGGREN** reference, cited in the Office Action in combination with **KORADI** against certain of Applicant's claims, does not cure the above discussed deficiencies of the **KORADI** reference. In particular, page 4 of the Office Action alleged, in part:

> Koradi discloses the switch locking assembly as described above. However, Koradi does not distinctly show the switch locking to be supported on a superstructure or railroad tie assembly. It is well known in the art that rails and switch assemblies are supported on crossties and ballast. Berggren et al discloses a railway switch assembly supported on a flanged crosstie and a space in the crosstie for accommodating some of the switch compoinents. It would have been obvious to one of ordinary skill in the art to have applied a railroad tie, like that of Berggren et al to a rail switch, like that of Koradi with the expected result of properly supporting the switch assembly on a railroad track at the proper height to insure proper operation of the switch and prevent malfunction and accidents.

Applicant respectfully disagrees.

In particular, **BERGGREN** **fails** to even recognize the important issue addressed by Applicant's claimed invention, i.e., that there needs to be a tension (in a direction parallel to the longitudinal axis of a railway sleeper or the u-shaped cross tie member) in order to tightly fit a locking support to the foot of a stock rail. Rather, contrary to this principle of Applicant's invention, **BERGGREN** discloses a locking mechanism **where the locking of the position of the switch blade is achieved by a central locking module**.

The concept of **BERGGREN** does not require, per se, **tightly fitting the locking support to the foot of the stock rail**, as required by Applicant's claims. See, for example, Figs. 4a and 4c of **BERGGREN** illustrating the complete locking mechanism of **BERGGREN**. Therefore, **BERGGREN** is also very flexible with respect to different profiles of the switch blade and the respective stock rail section, **since the concept of the a centrally arranged locking module of BERGGREN does not require any parts of the switch mechanism attached to the foot of the stock rail**. The control module attached to the foot of the stock rail in **BERGGREN**, as shown in Fig. 6a of **BERGGREN**, **is not** a part of the **switch mechanism**, itself, but rather, is a control module to detect the correct position of the switch blade after its actuation. The tightening concept for the

control mechanism 60 of **BERGGREN** is exactly the same as described IN **KORADI**. Therefore, even the combination of **KORADI** and **BERGGREN** **cannot** provide any teaching, suggestion or motivation to a person of skill in this art that would lead that person to derive Applicant's presently claimed invention.

For the foregoing reasons, among others, Applicant's claims are believed to be patentable over the **KORADI** and **BERGGREN** references, whether taken alone, or in combination.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest the features of claims 1 and 7. Claims 1 and 7 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 1 or 7.

In view of the foregoing, reconsideration and allowance of claims 1 - 4 and 7 - 14 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

The instant Amendment is being filed simultaneously with a Request for Continued Examination and its associated fee. If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,

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